

Serial No.: 10/579,263
Examiner: Binta M. Robinson
Date of Office Action: 19 JAN 2010
Applicant(s): Widmer *et al.*
Date of Response: April 19, 2010

REMARKS

In a non-final Office Action mailed January 19, 2010, the Examiner handling the application objected to claim 1 because no period appears at the end of the claim. The Examiner also alleged that claims 1 and 4-7 are anticipated under 35 U.S.C. 102(b) by Salvino *et al.* (Salvino), that claims 1, 2, and 4-7 are anticipated by Tamaki *et al.* (Tamaki), that claims 1, 2, 6, and 7 are anticipated by Vial *et al.* (Vial), that claims 1, 2, and 4-7 are allegedly anticipated by Kocharyan *et al.* (Kocharyan), and that claims 1-8 are indefinite under 35 U.S.C. 112, second paragraph for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention.

Claims 1-17 are pending; unelected claims 9-17 are withdrawn from further consideration. Claims 1 and 7 are amended. Support for these amendments is found in the specification as filed. Each issue raised by the Examiner is considered separately below. In view of the amendments above and remarks below, Applicant respectfully requests reconsideration of the merits of this patent application.

Claim Objections

Claim 1 is amended to provide a period at the end of the claim. Withdrawal of this objection is respectfully requested.

Rejections under 35 U.S.C. §102

Claims 1 and 4-7 were rejected under 35 U.S.C. 102(b) as anticipated by Salvino. Applicants respectfully disagree. The compound disclosed in Salvino is specifically excluded from claim 1. The seventh exclusion listed in claim 1 excludes R₁R₂R₃P⁺-(CH₂)₁₀-P⁺R₄R₅R₆ in which R₁, R₂, R₃, R₄, R₅, and R₆ are all butane. As the Salvino compound is specifically excluded from claim 1, Salvino does not disclose all of the claim elements of claim 1 and cannot anticipate claim 1 or claims 4-7 which depend therefrom. Withdrawal of this rejection is respectfully requested.

Claims 1, 2, and 4-7 were rejected under 35 U.S.C. 102(b) as being anticipated by Tamaki. Applicants respectfully submit that Tamaki cannot anticipate claims 1, 2, and 4-7

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because the compound disclosed in Tamaki is explicitly excluded from claim 1. The ninth exclusion listed in claim 1 excludes $R_1R_2R_3N^+-(CH_2)_{12}-N^+R_4R_5R_6$ in which R1, R2, R3, R4, R5, and R6 are all butane. As the compound disclosed in Tamaki is explicitly excluded from claim 1, Tamaki cannot anticipate claims 1, 2, and 4-7. Withdrawal of this rejection is respectfully requested.

Claims 1, 2, 6, and 7 were rejected under 35 U.S.C. 102(b) as being anticipated by Vial. Applicants respectfully disagree. Claim 1 specifically excludes the compound disclosed in Vial. The 12th exclusion listed in claim 1 excludes $R_1R_2R_3N^+-(CH_2)_{14}-N^+R_4R_5R_6$ in which R1, R2, R4, and R5 are methane and R3 and R6 are $CH_2CH_2C=CH$. As the compound disclosed in Vial is specifically excluded from claim 1, Vial cannot anticipate claims 1, 2, 6, and 7. Withdrawal of this rejection is respectfully requested.

Claims 1, 2, and 4-7 were rejected under 35 U.S.C. 102(b) as being anticipated by Kocharyan. Applicants respectfully submit that Kocharyan does not anticipate claims 1, 2, and 4-7. The compound disclosed in Kocharyan has a chain connecting the two quaternary nitrogen atoms. This chain has the formula $CH_2-C(Me)=C=CH=CH_2-$. Formula I of claim 1 of the present application requires the two quaternary centres to be connected by a chain of the formula $C(R_7R_7')-(A)-C(R_7R_7')$. By comparing the formulae of the chain of Formula I and the chain of Kocharyan, it may be seen that in the Kocharyan compound, A is $C(Me)=C=CH$. Claim 1 requires that A have from 5 to 18 carbon atoms. The methyl side chain of the Kocharyan compound does not contribute to the number of carbon atoms in the chain. Therefore, Kocharyan discloses a compound where A has a 3 carbon chain, which is well outside the scope of the presently claimed invention. For this reason, Kocharyan does not anticipate claims 1, 2, and 4-7. Withdrawal of this rejection is respectfully requested.

Rejections under 35 U.S.C. §112

Claims 1-8 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Specifically, the Office Action alleges that the phrase “and salts thereof” renders the claims indefinite because it is not clear if a single compound species is being claimed or a composition.

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Without agreeing to the Examiner's characterization of the claims, and solely to move this case to allowance, Applicants amend claims 1 and 7 to remove the phrase "and salts thereof" from the claims. Accordingly, Applicants submit this rejection is overcome and request its withdrawal. Applicants understand that this is merely a clarifying amendment and that the claim scope would continue to embrace any bisectionic compound comprising the indicated structures.

Fees

No fee is believed due in connection with this submission. However, if a fee is due, in this or any subsequent response, please charge the fee to Deposit Account No. 17-0055. Likewise, no extension of time is believed due, but should any extension be required in this or any subsequent response, please consider this to be a petition for the appropriate extension of time and a request to charge the petition fee due to the same Deposit Account.

Respectfully submitted,

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